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5 Counsel for Plaintiff
Grouse River Outfitters, Ltd.

6 UNITED STATES DISTRICT COURT FOR THE
7
8 NORTHERN DISTRICT OF CALIFORNIA
9 San Francisco Division

10 GROUSE RIVER OUTFITTERS, LTD

,

11 Plaintiff,

12 vs.

13 NETSUITE, INC.,

14 Defendant.

CASE NO. 16-CV-02954 LB

**DECLARATION IN SUPPORT OF
REPLY IN SUPPORT OF GROUSE
RIVER'S MOTION TO COMPEL THE
PRODUCTION OF INSTANT
MESSAGING, INTERNAL PROJECT
LOGS AND OTHER DOCUMENTS, AND
FOR AN ADVERSE JURY
INSTRUCTION**

**November 1, 2018
9:30 a.m.**

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19 Loren Kieve states:

20 1. In the declaration of Ladislav Sidlo submitted by NetSuite [ECF Doc. 140-2 at 1], the
21 declarant states that

22 3. The only messaging/chat solution the Company made available to employees
23 during the 2012 to 2016 timeframe was Cisco Jabber. This solution was configured such
24 that messages only displayed while an employee had the application open. This is, once the
solution was closed the messages were not retained.

25 2. Attached as **Exhibits 4** and **5** are two e-mails from NetSuite's production that contain
26 message texts.

27 3. These e-mails demonstrate, on their faces, that the messages NetSuite employees used to
28 communicate were in fact "retained" and used by these employees as references in NetSuite.

1 4. Attached as **Exhibit 6** is another e-mail from NetSuite’s production that references, on
2 November 26, 2014 at 10:42 a.m., an off-the-record instant messaging conversation.

3 5. As previously established [ECF Doc. 133], NetSuite has automatically waived any
4 claim of a confidential designation for these documents, which contain no confidential information
5 in any event.,

6 I declare under penalty of perjury that the foregoing is true and correct.

7 Executed on October 11, 2018.

/s/ Loren Kieve

8 Loren Kieve
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Exhibit 4

[illegible]

[REDACTED] n: [REDACTED], [REDACTED]
[REDACTED] t: [REDACTED], [REDACTED] y [REDACTED] [REDACTED] 4 [REDACTED] 9 [REDACTED] 1
[REDACTED]: [REDACTED] t, [REDACTED] d
[REDACTED]: [REDACTED], [REDACTED] l
[REDACTED]: [REDACTED]: [REDACTED] D - [REDACTED] d [REDACTED] s

██████████ in the ██████████, and the ██████████ of few ██████████ rces ██████████ do the ██████████ il ██████████ al, I ██████████ s ██████████ ft ██████████
██████████ te ██████████ t ██████████ to ██████████ w ██████████ al ██████████ to the ██████████ e.

's [redacted] ate [redacted] at [redacted]'s [redacted] on [redacted] if [redacted]'s [redacted] d [redacted] ble [redacted] s [redacted] t [redacted] d [redacted] st [redacted].

What is the answer to the question?

[REDACTED]n: [REDACTED], [REDACTED]d
[REDACTED]t: [REDACTED], [REDACTED]y [REDACTED], [REDACTED]4 [REDACTED]7 [REDACTED]4
[REDACTED]: [REDACTED], [REDACTED]
[REDACTED]: [REDACTED], [REDACTED]
[REDACTED]: [REDACTED] - [REDACTED]d [REDACTED]s

[illegible]
$$[k]_1 \cup [k]_k :$$

ii i re

0 M

██████████ d ██████████ ch:

i

4 M

$$[1, \dots, k]:$$

I [redacted] and [redacted].

6 M

[redacted] at [redacted] [redacted] are all [redacted] [redacted] and that [redacted]
[redacted] by [redacted].

[REDACTED] 6 [REDACTED] M

[REDACTED] s [REDACTED], II [REDACTED] el [REDACTED] y [REDACTED] al [REDACTED] no [REDACTED] ver [REDACTED] s [REDACTED] no [REDACTED] r a [REDACTED] d [REDACTED] w.

[REDACTED] d [REDACTED] ch:

What's the future of the world?

$$1 \leq k:$$

_____es _____m a _____er _____d _____t _____p _____o _____s _____l _____n _____s _____..

8 M

I did not see [redacted] and [redacted] te [redacted] al [redacted] s do not [redacted] ers do not [redacted] f [redacted]

██████████ 9 ████████ M

... ..

██████████ 9 ██████████

[REDACTED] d [REDACTED] ch:

the university no longer finance [redacted] in [redacted] next [redacted]?

0

Are you a member?

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$$1 \leq k:$$

_____s _____d _____r _____s _____re _____on _____d _____wer _____t _____re _____. I _____hk _____s _____k _____r _____ow.

[REDACTED] 1 [REDACTED] M

The [redacted] do [redacted] er [redacted] at [redacted] m [redacted] n [redacted] er [redacted] t [redacted] at [redacted] s [redacted] g [redacted] d [redacted] Y [redacted] ..

1 M

[REDACTED] re [REDACTED] by [REDACTED] r [REDACTED] b [REDACTED] d [REDACTED] y [REDACTED] p [REDACTED] n [REDACTED] l [REDACTED] h [REDACTED] D [REDACTED] h [REDACTED] s [REDACTED]
[REDACTED] y [REDACTED] e [REDACTED] at [REDACTED] n [REDACTED] ed [REDACTED].

2 M

[REDACTED], [REDACTED] e [REDACTED] [REDACTED] t [REDACTED] o [REDACTED] ss [REDACTED] l [REDACTED] at [REDACTED] f [REDACTED] [REDACTED] t [REDACTED].

2 M

██████████ d ██████████ ch:

...p...re...n a...ss...n...s...e...

[REDACTED] m [REDACTED] do [REDACTED] h [REDACTED] t [REDACTED] o [REDACTED] l [REDACTED] s [REDACTED] o [REDACTED] n [REDACTED] d [REDACTED], r [REDACTED] o [REDACTED] p [REDACTED] e [REDACTED] r [REDACTED]
[REDACTED] o [REDACTED] t [REDACTED] n [REDACTED] k.

██████████ 6 ██████████

[REDACTED]. I [REDACTED] s [REDACTED] g [REDACTED] o [REDACTED] t a [REDACTED] ar [REDACTED] n [REDACTED] n [REDACTED] s [REDACTED] t [REDACTED] h [REDACTED] s [REDACTED] o [REDACTED] el [REDACTED] D [REDACTED]
[REDACTED] ..

6 4

█'s █t █s, █t █er █t █s █t █y █t █h █er █t █s

7 M

...but [REDACTED] t [REDACTED] f [REDACTED] e [REDACTED] D [REDACTED] 2 [REDACTED] s [REDACTED] e [REDACTED] d [REDACTED]) [REDACTED] s a [REDACTED]

[REDACTED] 7 [REDACTED] 1

If we can [redacted] me [redacted], I'd like a [redacted] number [redacted] to [redacted].

7 4

[illegible]

84

██████████ d ██████████ ke ██████████ o ██████████ de a ██████████ w ██████████ s ██████████ h ██████████ sa ██████████ s I see ██████████ s ██████████ t

██████████e

█████ d ██████ sch | ██████ t ██████, ██████ onal ██████ es

██████████ : ██████████ ██████████) ██████████ 36

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h=2c8408857915fe23a1a6]
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Exhibit 5

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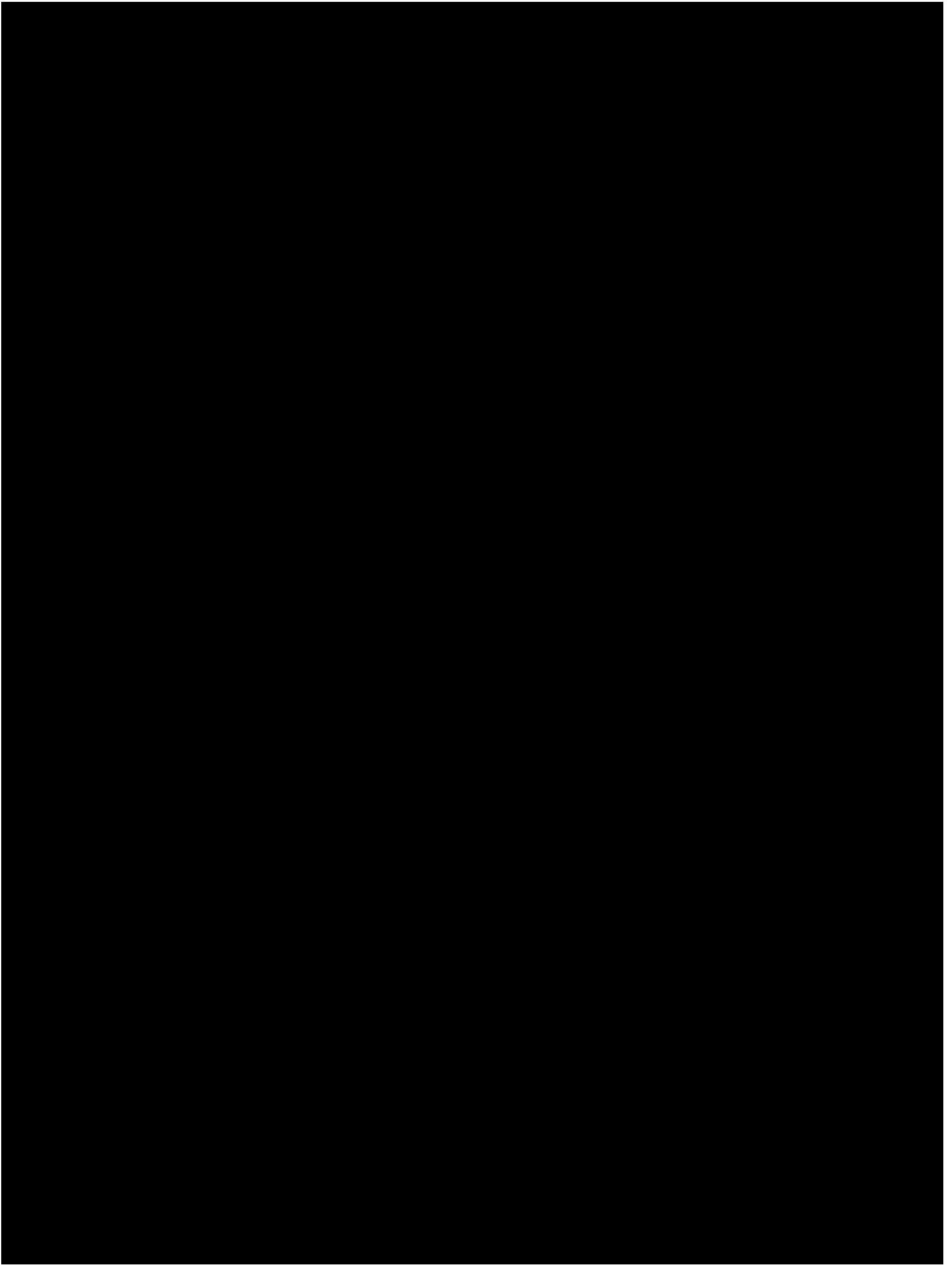
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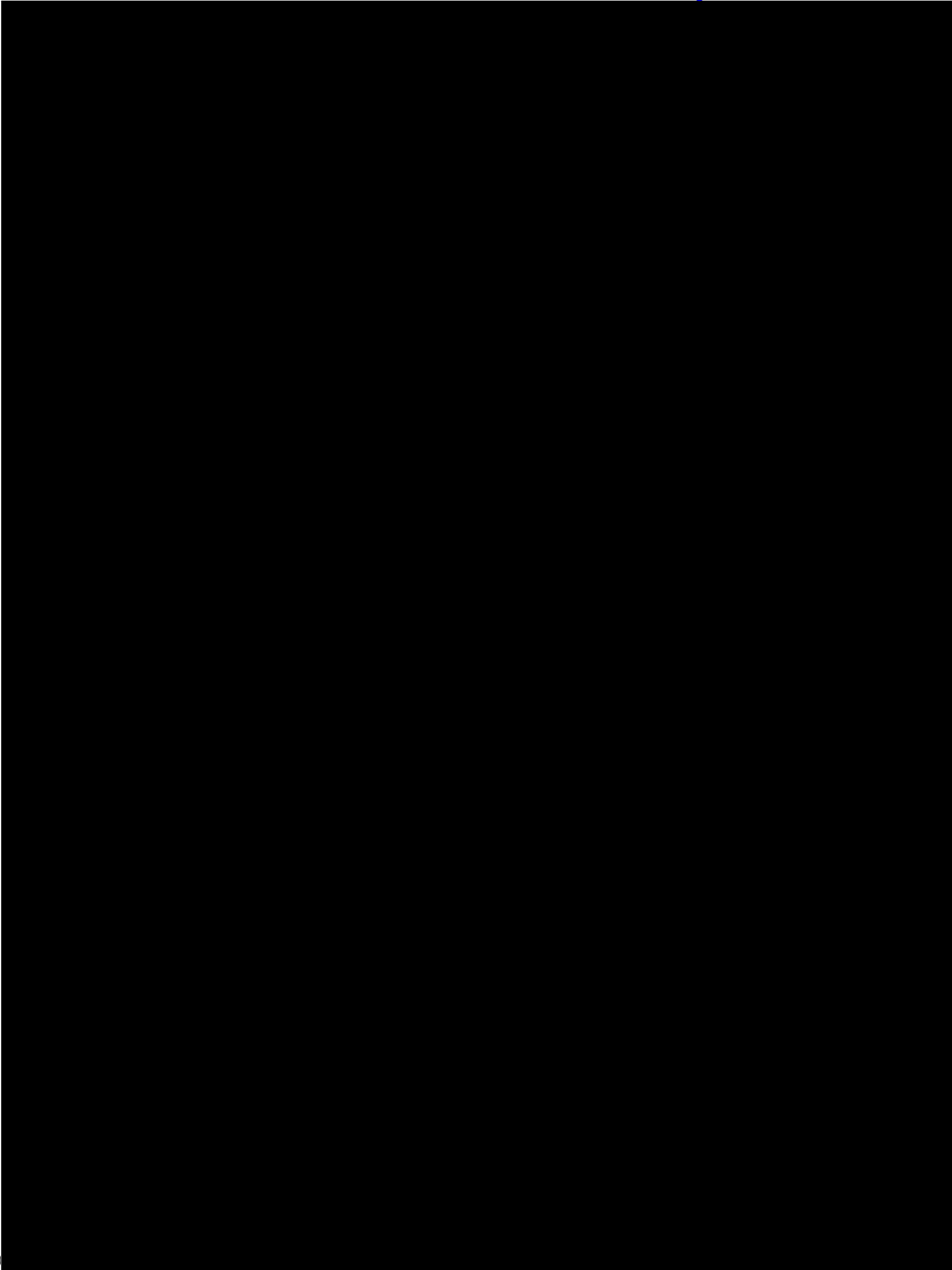
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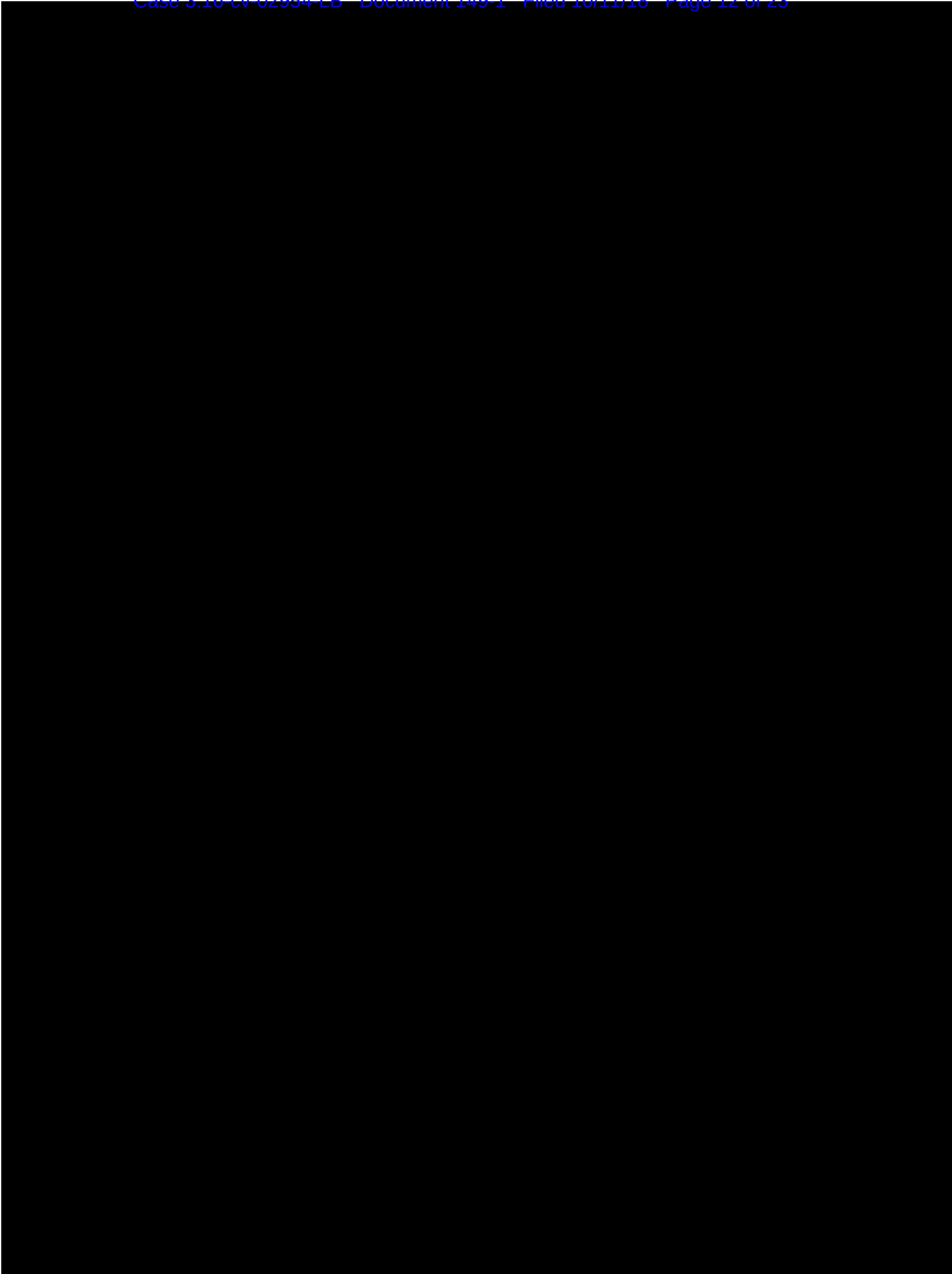
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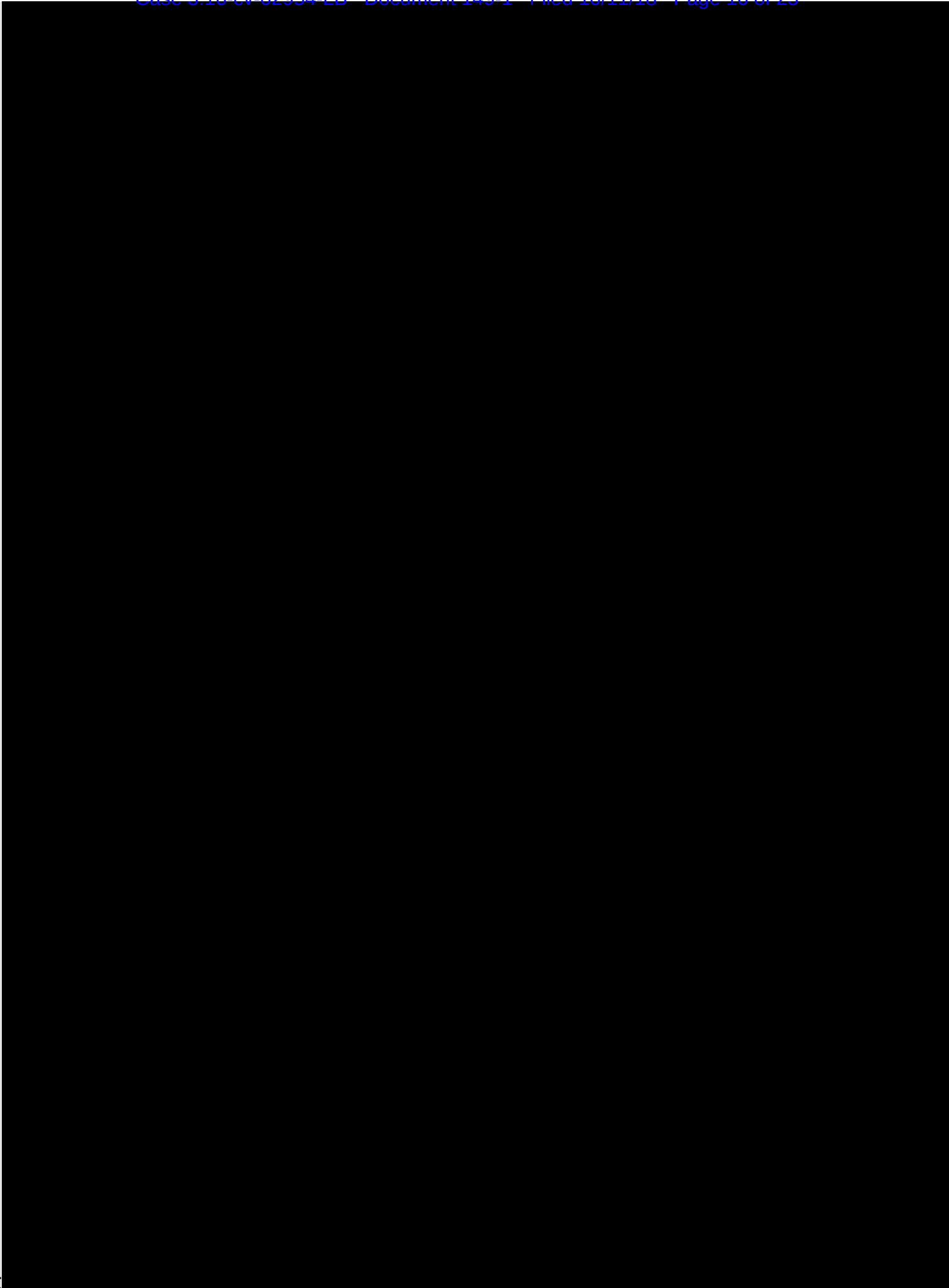


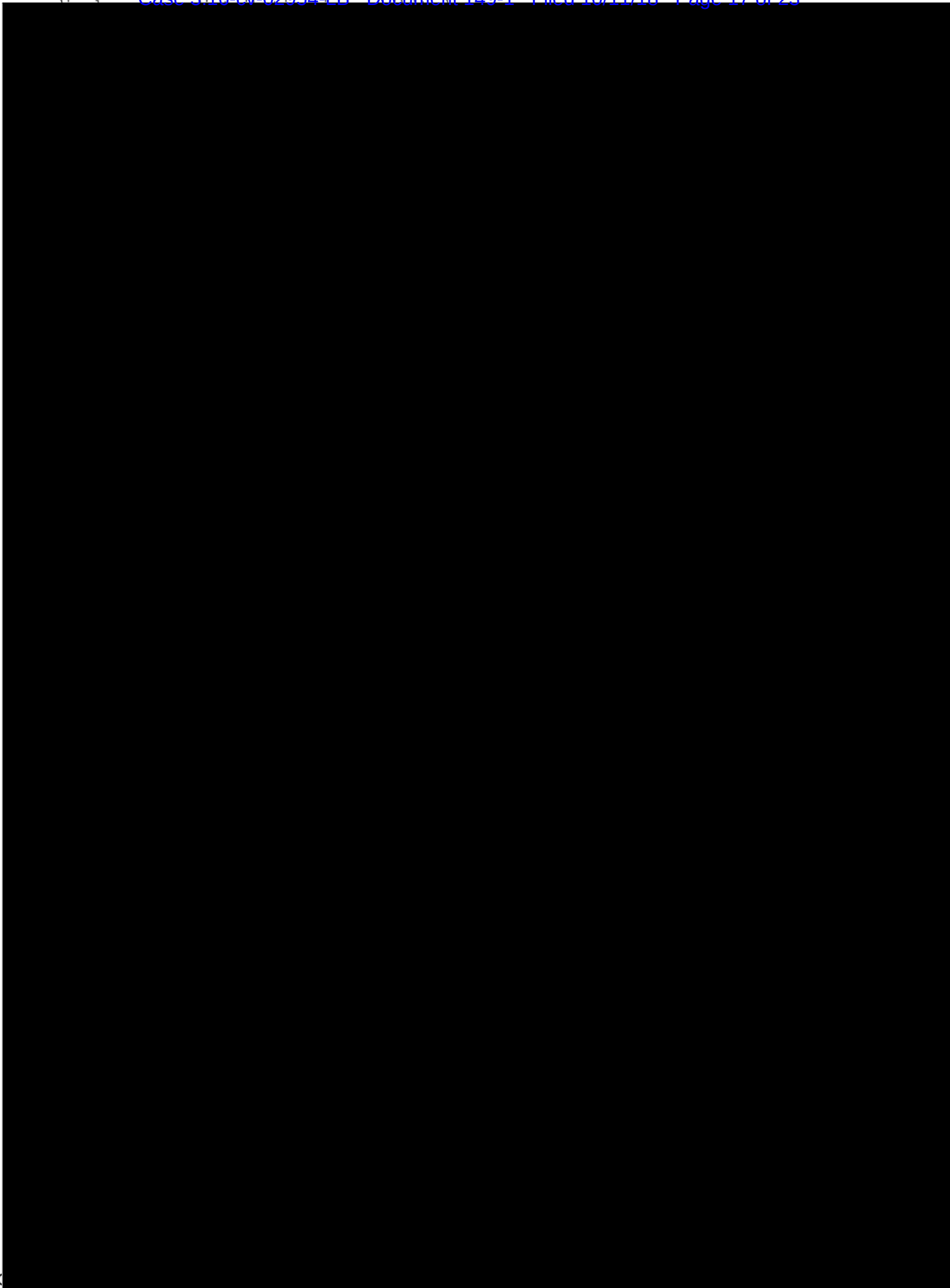


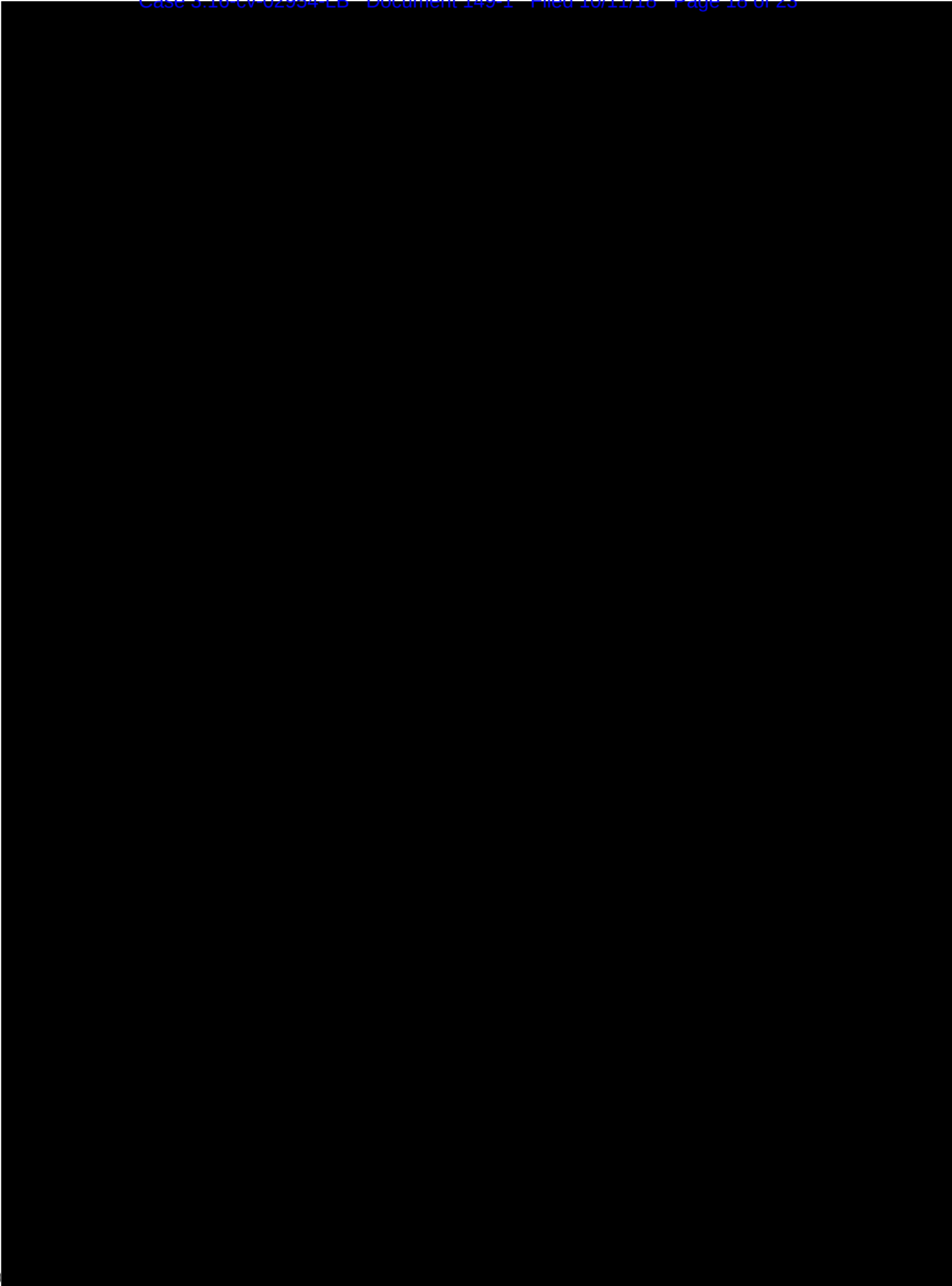
edge here

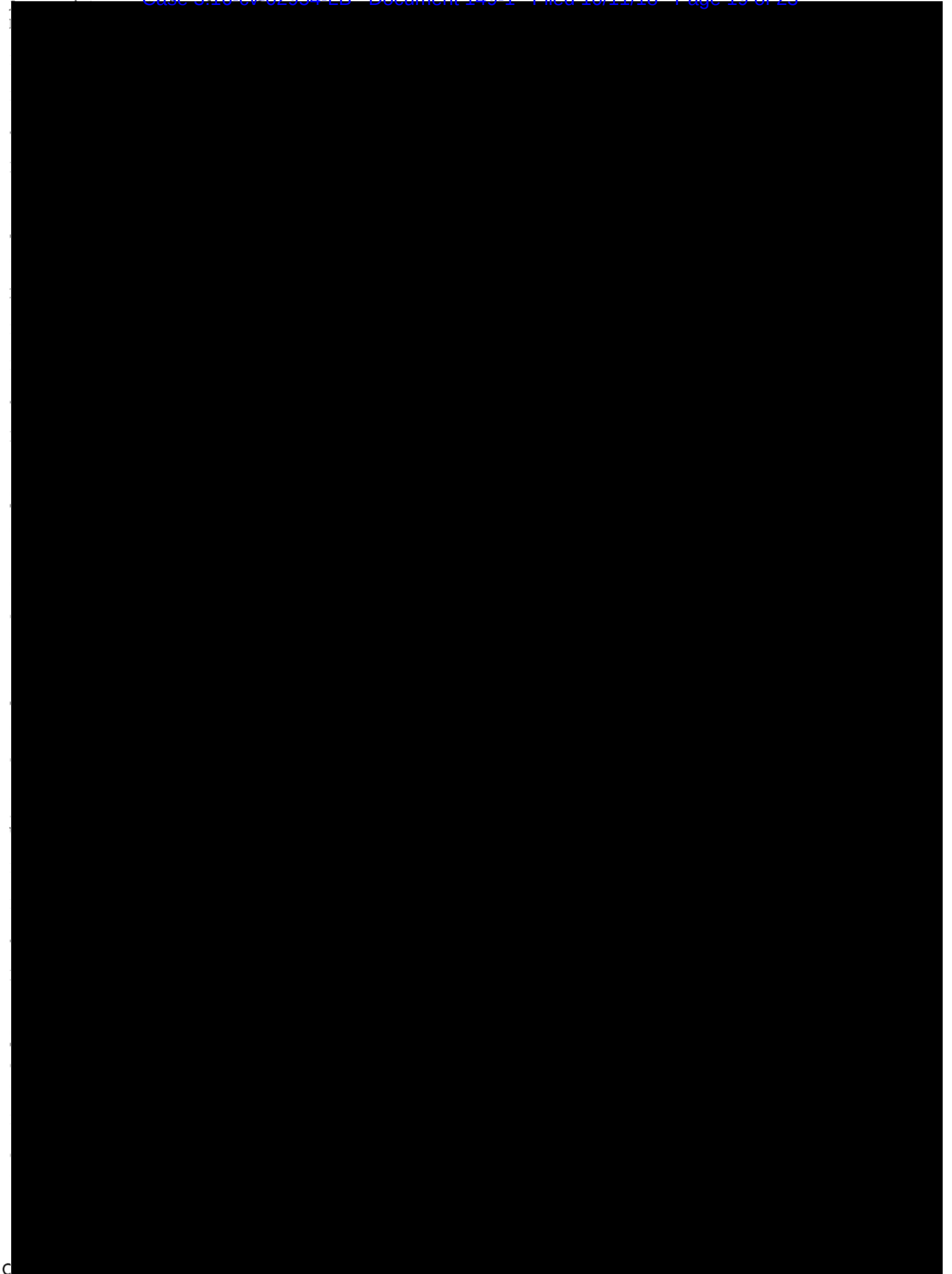
out of

Exhibit 6









[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

